

AMENDED IN ASSEMBLY SEPTEMBER 7, 2005

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY AUGUST 22, 2005

SENATE BILL

No. 1026

Introduced by Senator Kehoe

(Principal coauthors: Assembly Members Mullin and Salinas)

(Coauthor: Senator Alquist)

(Coauthor: Assembly Member Lieber)

February 22, 2005

An act to add and repeal Section 1240.060 of the Code of Civil Procedure, relating to eminent domain, ~~and declaring the urgency thereof, to take effect immediately.~~ *domain.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1026, as amended, Kehoe. Eminent domain.

Existing law authorizes public entities to seize private property under the power of eminent domain.

This bill would prohibit, until January 1, 2008, a ~~public entity community redevelopment agency, or any community development commission or joint powers agency that has the powers of a community redevelopment agency,~~ from exercising, threatening, or implying the use of the power of eminent domain to acquire owner-occupied residential real property ~~for private use,~~ as defined, ~~from which the owner would be displaced if ownership of the property will be transferred to a private party or private entity.~~

The bill would also require the California Research Bureau of the State Library to submit ~~a report~~ *two reports* to the Legislature, on or before January 1, 2007, ~~and January 1, 2008,~~ regarding the exercise of the power of eminent domain *in connection with residential*

property and commercial property, as specified. The bill would also direct the California Law Revision Commission to study the appraisal and valuation process in eminent domain proceedings with respect to fairness of compensation and the role of legal counsel for the condemnee, and to report to the Legislature on this study on or before January 1, 2008.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1240.060 is added to the Code of Civil
2 Procedure, to read:
3 1240.060. (a) Notwithstanding any other provision of law, no
4 ~~public entity~~ *community redevelopment agency, or any*
5 *community development commission or joint powers agency that*
6 *has the powers of a community redevelopment agency, shall*
7 *exercise, threaten, or imply the use of the power of eminent*
8 *domain to acquire owner-occupied residential real property for*
9 ~~private use.~~
10 ~~(b) As used in this section, "private use" means any use other~~
11 ~~than as a public facility or a public works that is owned and~~
12 ~~operated by the public entity.~~
13 ~~(c)~~
14 *from which the owner would be displaced if ownership of the*
15 *property will be transferred to a private party or private entity.*
16 *(b) As used in this section, "owner-occupied residential real*
17 *property" means a single-family residence or a unit within a*
18 *common interest development that is occupied by the owner or*
19 *owners of record during the effective dates of this section, or a*
20 *duplex where at least one-half of the duplex is occupied by the*
21 *owner or owners of record during the effective dates of this*
22 *section.*
23 *(c) The requirements of this section shall apply to both new*
24 *and pending eminent domain projects, except that it shall not*
25 *apply to projects if a resolution of necessity was adopted*
26 *pursuant to the requirements of Section 1240.040 prior to the*
27 *effective date of this section.*

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later statute which is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. (a) On or before January 1, 2007, the California Research Bureau of the State Library shall submit to the Legislature a report that ~~identifies~~ *includes, but not limited to, all of the following:*

(1) All exercises of the power of eminent domain by public entities to acquire ~~owner-occupied~~ residential property for private use completed between ~~January 1, 1996, and January 1, 2006. January 1, 1998, and January 1, 2003, or later if the information is available. This information shall be separable according to whether residential property is owner-occupied or not owner-occupied.~~

(2) The declared purposes for each of those acquisitions.

~~(3) The compensation paid for each of those acquisitions.~~

(3) The initial offer of just compensation for each of those acquisitions.

(4) The final offer of just compensation for each of those acquisitions.

(5) The total compensation paid for each of those acquisitions, including the acquisition price and relocation payments.

~~(4)~~

(6) The current owners of those real properties.

~~(5)~~

(7) The current uses of those real properties.

(b) As used in this section, “private use” means any use other than as a public facility or a public works that is owned and operated by the public entity.

~~SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~The public controversy surrounding the rights of private property owners following the United States Supreme Court’s decision in Kelo v. City of New London, ___ U.S. ___ (2005) requires a prompt but thoughtful legislative response. Accordingly, the moratorium and study required by this act are essential.~~

1 SEC. 3. (a) On or before January 1, 2008, the California
2 Research Bureau of the State Library shall submit to the
3 Legislature a report that includes, but is not limited to, all of the
4 following:

5 (1) All exercises of the power of eminent domain by public
6 entities to acquire commercial property for private use
7 completed between January 1, 1998, and January 1, 2003, or
8 later if the information is available.

9 (2) The declared purpose for each of those acquisitions.

10 (3) The initial offer of just compensation for each of those
11 acquisitions.

12 (4) The final offer of just compensation for each of those
13 acquisitions.

14 (5) The total compensation paid for each of those acquisitions,
15 including the acquisition price, relocation payments, good will,
16 and equipment replacement.

17 (6) The current owners of those real properties.

18 (7) The current uses of those real properties.

19 (b) As used in this section, "private use" means any use other
20 than as a public facility or a public works that is owned and
21 operated by the public entity.

22 SEC. 4. The California Law Revision Commission is directed
23 to study whether the law governing the appraisal and valuation
24 processes in eminent domain proceedings fairly compensates
25 condemnees for the taking of their properties, including the role
26 and importance of legal counsel for the condemnee. The
27 commission is directed to submit a report on this study, including
28 any recommendations for changes in the law, to the Legislature
29 on or before January 1, 2008.